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OCT 30 2009

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIAPOSTED ON WEBSITE
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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In re:)	Case No. 09-32327-D-13L
)	
PAULA CORDOVA,)	Docket Control No. USA-2
)	
Debtor.)	Date: October 13, 2009
)	Time: 1:00 p.m.
)	Dept: D
)	

This memorandum decision is not approved for publication and may not be cited except when relevant under the doctrine of law of the case or the rules of claim preclusion or issue preclusion.

MEMORANDUM DECISION

On August 11, 2009, the United States Department of Agriculture, Rural Development Agency ("Rural Housing") filed a Motion for Modification of Automatic Stay, bearing Docket Control No. USA-2 (the "Motion" or "Motion for Modification of Stay").

For the reasons set forth below, the court will deny the Motion.

The background of Rural Housing's loans to Paula A. Cordova (the "debtor") is set forth in the court's Memorandum Decision on the Objection of the United States to Treating Its Purchase Money Mortgage on the Debtor's Residence as Four Separate Mortgages (the "Objection"), Docket Control Nos. SL-1, SL-2, and SL-3, filed herewith, incorporated herein by reference.

The Motion for Modification of Stay depends on the assumption that Rural Housing has a single lien against the debtor's property at 210 Palin Avenue, Galt, California (the

/ / /

1 "Property"). With one exception,¹ Rural Housing uses the terms
2 "deed of trust," "mortgage," and "mortgage payment" only in the
3 singular. "[Rural Housing] moves for modification of the
4 automatic stay to enable it to foreclose . . . under its deed of
5 trust" Memorandum in Support of Motion ("Mem."), 1:19-
6 23. "Ms. Cordova failed to pay her mortgage when and as due."
7 Decl., ¶8. "The last payment received from Ms. Cordova on her
8 Rural Housing mortgage was in April, 2008" Id., ¶9.
9 "The mortgage payment due May 9, 2008, and all subsequent
10 payments, have not been received by Rural Housing." Id., ¶10.

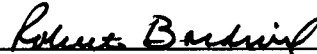
11 The figures on which the Motion is based are the combined
12 amounts for all the debtor's obligations to Rural Housing --
13 those evidenced by the assumption agreement and the three
14 promissory notes. "As of the date of filing, Ms. Cordova owes
15 Rural Housing \$256,247.89." Mem., 2:23-24. "Assuming [the
16 debtor's] valuation of the Palin house is correct, Rural Housing
17 is undersecured by more than \$140,000" Id., 2:25-27.
18 "[The debtor's] plan proposes to cure the sum of \$7,850.16 but
19 her pre-petition default totals \$33,776.19." Id., 3:2-3. Rural
20 Housing's Relief from Stay Information Sheet states that its
21 trust deed is a first, that the principal balance due is
22 \$191,269.46, that the total due is \$256,247.89, and that the
23 monthly payment before subsidy is \$1,112.53, which is the precise
24 total of the monthly payments stated in the assumption agreement
25 and the three promissory notes.

26
27 1. Rural Housing's California Single Family House Servicing
28 Coordinator states that the assumed note and the three promissory
notes "were secured by duly recorded deeds of trust." Declaration
of Ralph Westlin, filed August 11, 2009 ("Decl."), ¶7.

1 As described in its Memorandum Decision on the Objection,
2 the court rejects the notion that Rural Housing has a single lien
3 against the Property. Therefore, because the Motion depends on
4 that proposition, it will be denied.

5 The court will issue an appropriate order.

6 Dated: October 29, 2009



7 ROBERT S. BARDWIL

8 United States Bankruptcy Judge
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CERTIFICATE OF MAILING

I, Andrea Lovgren, in the performance of my duties as Deputy Clerk to the Honorable Robert S. Bardwil, mailed by ordinary mail a true copy of the attached document on today's date to each of the parties listed below:

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DATE: OCT 30 2009


Deputy Clerk